THE HON'BLE SRI JUSTICE N.V. RAMANA

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WRIT PETITION NO.798 OF 2003

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Dated: 23.08.2005

Between:

Kanchupati Ramu S/o Late Krishnamma
R/o Gopalapatnam Village and Mandal, Visakhapatnam District.

..... PETITIONER

AND

1 The District Collector,
Vizianagaram, Vizianagaram District and 3 others.

....RESPONDENTS

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WRIT PETITION NO.798 OF 2003

ORDER:

The petitioner claims to be owner of the land admeasuring Ac.5.93 cents situated in Survey No.86 of Mallepudi Village, S. Kota Mandal, Vizianagaram District, having purchased the same under a registered sale deed dated 22.12.1999, and that the respondents are initiating steps to lay a metal road from Mallepudi to Dasarivanikallu through his land without following due process of law. Assailing the impugned action of the respondents, the petitioner filed the present writ petition.

Though, the writ petition was admitted and an interim order was passed by this Court on 10.01.2003, no counter affidavit is filed by the respondents so far.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The learned Standing Counsel for the respondents submitted that on apprehension only the petitioner filed the present writ petition, and that the respondents are following due process of law before acquiring any land for the purpose of laying the road.

In ***P.Lakshmana Rao Vs. Executive Officer***, a Division Bench of this Court issued directions to be followed by the Municipal, Panchayat Raj and Revenue authorities for acquiring the land for public purpose. The principles were reiterated in ***M.Madhavi Latha Vs.Rajendranagar Municipality*** . The Principles laid down by the Division Bench are as follows:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6. If there is any claim for grant/assessment of the property, the

concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

Learned Standing Counsel appearing for the respondents, does not dispute the legal position.

The writ petition is disposed of in terms of the above judgment and till the claim of the petitioner is decided status quo existing as on today shall be maintained. No costs.

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(N.V. RAMANA, J)

Dated: 23.08.2005

Nsr